

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JOHN A. FITZMAURICE,

Plaintiff,

v.

Case No. 11-cv-430-JPG-SCW

CHRISTINE GILBERT, KEVIN BAME,  
BRETT PATTON, SOUTHERN ILLINOIS  
UNIVERSITY CARBONDALE, PHILLIP  
DAVID STEWART, LINDA MCCABE  
SMITH, COREY S. BRADFORD, RITA  
HARTUNG CHENG and PHILLIP GATTON,

Defendants.

**MEMORANDUM AND ORDER**

This matter comes before the Court on review of plaintiff John A. Fitzmaurice's complaint (Doc. 1), motion for leave to proceed *in forma pauperis* (Doc. 2) and motion for appointment of counsel (Doc. 4). A federal court may permit an indigent party to proceed without pre-payment of fees. 28 U.S.C. § 1915(a)(1). Nevertheless, a court can deny a qualified plaintiff leave to file *in forma pauperis* or can dismiss a case if the action is clearly frivolous or malicious or fails to state a claim on which relief may be granted. 28 U.S.C. § 1915(e)(2)(B)(i) & (ii).

While the Court is satisfied from Fitzmaurice's affidavit that he is indigent, he has failed to state a claim over which this Court has jurisdiction. The Court is unable to detect in the complaint any claim arising under the Constitution, laws or treaties of the United States such that federal question jurisdiction exists. *See* 28 U.S.C. § 1331. Nor is there any suggestion that there is diversity jurisdiction, *see* 28 U.S.C. § 1332, or any other basis for federal jurisdiction. In sum, it appears this Court does not have the authority to hear Fitzmaurice's grievances or grant him

any relief. Accordingly, the Court **DENIES** the motion for leave to proceed *in forma pauperis* (Doc. 2), **DISMISSES** this case for lack of jurisdiction pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), **DENIES as moot** the motion for appointment of counsel (Doc. 4) and **DIRECTS** the Clerk of Court to enter judgment accordingly. This ruling does not prevent Fitzmaurice from pursuing relief in another non-federal forum.

**IT IS SO ORDERED.**

**DATED: January 9, 2012**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**